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THE CONTRIBUTION OF *NICOMACHEAN ETHICS* iii5
TO ARISTOTLE'S THEORY OF RESPONSIBILITY

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ABSTRACT

This paper develops a radical reinterpretation of the argument in *Nicomachean Ethics* iii 5 concerning responsibility for character. I argue that what is at stake is the new standard of liability Aristotle is introducing there, the so-called "negligence" standard, and that the scope of the discussion is limited to the class of agents who are negligent through an *inability* to take care. Thus, I argue, there is no claim being made that in general responsibility for acts requires responsibility for character.

THE CONTRIBUTION OF *NICOMACHEAN ETHICS* iii5 TO

ARISTOTLE'S THEORY OF RESPONSIBILITY

Responsibility (*aitia*) is for Aristotle a kind of causal (*aitos*) relationship between an agent and an item of conduct or product of conduct. The indications are that he regards responsibility in this sense as creating liability to both legal and non-legal sanctions, the latter including what we would call moral praise and blame. These different forms of liability are nowadays often spoken of as different kinds of responsibility, sometimes with the implication that they are created by different sets of facts, but this way of speaking is not found in Aristotle. He does not distinguish moral responsibility from legal responsibility, nor either of these from mere causal responsibility. He does not, as far as I can tell, ever use any Greek equivalent of the expression "moral responsibility."

It is somewhat surprising, then, that interpreters of Aristotle should so often read his account of responsibility as an account of *moral responsibility* in the modern, if ill-defined, sense of the expression. For not only is this not warranted by the forms of expression Aristotle uses, it is at odds with what one would expect given Aristotle's philosophical method and what we know about responsibility in Athenian life and thought. His method, as he says (*EN* 1145b2-8)¹, is to

set the phenomena (*phainomena*) before us, and by working through the puzzles (*diaporēsantas*) prove, if possible, the truth of all the beliefs we hold (*ta endoxa*) about these . . . or, failing this, of the greater number and the most authoritative; for if we both resolve the difficulties and leave the reputable opinions undisturbed, we shall have proved the case sufficiently.

What, in Aristotle's world, *were* the phenomena of responsibility, and what puzzles did they exhibit? What opinions regarding responsibility would he have felt obliged to entertain and, if possible, redeem? These questions, though not at all difficult to answer, have not received adequate attention. The all too frequent result is that Aristotle has been anachronistically assumed to have an interest in responsibility that is akin to the modern moral philosopher's. He is read as having a significantly *metaphysical* interest in *moral* responsibility, whereas the historical evidence available to us suggests something very different. It suggests that his general conception of responsibility as a kind of causal relationship was a reflection of the character of arguments about responsibility found in Athenian life, and especially in the Athenian courts.² There is reason to think, moreover, that a central concern of Aristotle's was to impose some philosophically coherent regularity on the evolving and subtly inconsistent standards used by those courts; for historians of law credit him with the first formulation of the "negligence" standard of liability, a standard which came to be embodied in the *bonus paterfamilias* of the Roman law and the "reasonable man" of the English and

American law of torts.³ Again, this is not to say that we should take Aristotle to be expounding an account of legal responsibility *rather than* moral responsibility, for it would seem that this distinction had not yet been invented.⁴ We should, however, expect his conception of responsibility to be similar in some respects to the conception of responsibility embodied in the negligence standard belonging to the common law of torts, and we should be mindful of his status as an innovative legal theorist, especially in interpreting those passages in which he anticipates and answers objections to his views on responsibility.

I.

I want to focus on what I take to be the least understood of Aristotle's remarks on responsibility, which are those occurring in *EN* iii 5, where he says that virtues are states of character which "are in our power and voluntary" (1114b29-30). In arguing this he appears to concede that an agent would not be responsible for what he does if he were not also responsible for having the state of character that explains his doing what he does. He also appears to argue that we are all of us responsible for having the characters we do, when he insists that character arises through the agent's own voluntary actions. Understood this way, he exposes himself to devastating objections, for he seems to hold that an agent, *A*, is not the (responsible) source of any *x*, unless *A* is the source of the source of *x*, and that *A* does not have control over the producing of *x*, if *x* is produced by facts about *A* which *A* has never had control over. This is tantamount to holding that *A* is not responsible for any *x*, unless *A* is *radically responsible* for *x*. That is, it amounts to holding that for *A* to be responsible for *x*, *A* must be the uncaused cause of *x*, and *A*'s producing *x* must be unconditionally avoidable. But if Aristotle really believes that responsibility requires all this, and he is trying to satisfy these requirements by showing that we are all of us responsible for having the characters we do, then his account is lamentably inept.

It would be inept because if one concedes that action determined by the agent's state of character would not be avoidable in the way required for responsibility, then to argue that responsibility is possible because a time exists at which the character is not yet formed, invites the objection, as Hardie pointed out some years ago, that "if the earlier actions cannot be traced to character, they can be traced to the joint efficacy of natural innate tendencies and environmental influences."⁵ The argument seems, as he says, "to skate over some thin ice."⁶

So does Aristotle make concessions here that doom his account of responsibility, or can these difficulties be resolved? One way of dealing with this question, a not uncommon one among those who take Aristotle to be a reconciling determinist, is to simply ignore it and focus on other texts. Of those who do grapple with this question, however, there is widespread agreement that Aristotle does concede that unless one is responsible for one's character, one cannot be responsible for one's actions. They agree on this, but disagree about whether this answer to the objection is adequate or not. My own view, which I shall defend in what follows, is that the concession Aristotle makes is quite different from the one he is commonly thought to make, and that the account of responsibility this leaves him with is essentially sound. I will argue that the nature of the objection he responds to has been

misidentified, indeed that the *topic* of the crucial passages has not even been correctly identified.

I will begin by sketching out the broad contours of Aristotle's account of responsibility, and will then, in proceeding to a detailed consideration of *EN* iii 5, consider the recent argument of Irwin's that (on the standard reading) "a reasonable defense of Aristotle's claim about responsibility for character" is possible.⁷ This defense is not one that Aristotle could have endorsed, I think, and it will be illuminating to see why.

II.

It is obvious that responsibility and voluntariness are closely linked in the *EN*, but what the relationship is exactly is less clear, and perhaps less clear still is what the nature of either of these is, positively speaking. Considerable confusion has been created, no doubt, by the fact that in the *EN* there is a great deal of attention devoted to involuntariness, so that the definition of voluntariness seems to derive from it; but this confusion can be rectified through a closer reading of the *EN* itself, as well as through a comparison with the *Magna Moralia* (*MM*) and the *Eudemian Ethics* (*EE*), both of which proceed by defining voluntary action before involuntary action, and not in terms of it.⁸

I said at the outset that responsibility (*aitia*) is for Aristotle a kind of causal (*aitos*) relationship between an agent and an item of conduct or product of conduct, and we can see this in his remark in *EN* iii 5 that "man is a moving principle or begetter of his actions as of children" (1113b 18-19). This remark might be dismissed as hasty and not indicative of his views, except that the same idea recurs at greater length in both of the earlier works, and we have no reason to think he has changed his mind on this point. It appears in *EE* ii 6 as follows (1222b 16-30):

Every substance is by nature a sort of principle; therefore each can produce many similar to itself, as man man, animals in general animals, and plants plants. But in addition to this man alone of animals is also the source of certain actions; . . . as elsewhere, the source or principle is the cause of all that exists through it.

Following this he says that praise and blame are given "only for what we ourselves are causes of, . . . that excellence and badness have to do with matters where the man himself is the cause and source of his acts" (1223a 11-15). Here we see first the claim that only human beings are capable of action, and further the implied claim that this is the case because no other kind of creature is so constituted as to be the right kind of source of motion. Besides this general requirement for being properly subject to attributions of responsibility, namely that the subject of those attributions be capable of action, we see the further requirement that we can only be properly held responsible for those particular things that we are the "cause and source" of. We will need to consider each of these requirements in turn after noting what Aristotle says about biological begetting in the *MM*.

There are many indications that in the *MM* Aristotle is expending more energy in trying to put distance between himself and Socrates than he does in the later works, and also that he has made far less progress in coming to grips with the confused state of Athenian

law. And so, when the metaphor of biological begetting appears in the *MM* it is in responding directly to the Socratic doctrine that "to be good or bad does not rest with us to come about" (1187a 6-7), and it is without the explicit talk about causation that we see in the *EE*, and which was abundant and of central importance in the Athenian courts by the start of the fourth century.⁹ It is quite interesting, however, that in the *MM* we are told that action springs from principles in much the way that a tree springs from a seed, the seed being "a kind of principle (*archē*)" (1187a 33-34). A seed, of course, is the origin of a tree without being a *radical* or absolutely original origin. This is consistent with the *EN* statement that we beget our actions as we do our children, and it suggests, even at this early point in our inquiry, that whatever Aristotle concedes to the objector in *EN* iii 5, it is not, as Hardie suggests, that "the agent's activity, although a moving principle, is not an original or spontaneous principle of movement, [since it is determined by character]."¹⁰

To continue, however, we must ask what it is about human beings that makes them alone capable of action, and thereby subject in general to judgments of responsibility. A good place to start is with Aristotle's remarks regarding children and other animals, for there we find an account of the abilities of normal adults, i.e. fully developed human beings which make them, but not other animals and children, full-fledged agents who are properly regarded as in general responsible for what they do. These abilities come under the heading of choice or decision (*prohairesis*), which animals are incapable of because they lack "deliberative imagination" (*DA* 434a5-10). Both children and animals act from appetite, or simple desire, he implies (*EN* 1111a24-27), whereas "when we have decided as a result of deliberation, we desire in accordance with our deliberation" (*EN* 1113a12-13). Deliberation, as Aristotle describes it, is probably best understood as a process that includes identification of the constituents of an end,¹¹ as well as selection of means that are appropriate to an end (*EN* 1112b13), and involving the ability to recognize and respond to the relevance of various relevant considerations (*EN* 1140b5-6 and 16-21). Since this is a sophisticated form of reasoning that deliberation requires, it appears that in lacking mature powers of reasoning, children must lack something essential for responsibility.

Besides reasoning or thought, choice also requires character which children lack at least by-and-large, since it is formed over time through "activities exercised on particular objects" (*EN* 1105b10-12). "The origin (*archē*) of action," Aristotle says (*EN* 1139a32- 1139b5):

... is choice (*prohairesis*), and that of choice is desire (*orexis*) and reasoning with a view to an end. This is why choice cannot exist either without thought (*dianoia*) and intellect or without a state of character (*ēthikēs* . . . *hexeōs*); for good action and its opposite cannot exist without a combination of intellect and character. Intellect itself, however, moves nothing, but only intellect which aims at an end and is practical . . . Hence choice is either desiderative thought or intellectual desire, and such an origin of action is a man (*kai toiautē archē anthropos*).

So it is having the capacity for choice or decision that makes fully developed human beings sources of action, and not merely sources of motion, and this capacity for choice requires a capacity for reasoning and a state of character. Why reasoning is essential is clear, but we might wonder why a state of character is essential as well. Aristotle's answer to this seems to

be, as he says, that intellect alone "moves nothing, but only intellect which aims at an end and is practical." Now "each state of character has its own ideas of the noble and the pleasant" (*EN* 1113a 31-32), its own ideas of the proper ends of action, and so a state of character provides reason with a conceptualized structure of ends which it can engage with in a way that will yield a decision that can move the agent. Where there is no state of character, the only possibility, apparently, is to act on the desire that is strongest at the time of action. This makes it clear, too, why it is only those who are capable of choice and action who can be properly judged responsible in a liability-creating sense. For if one can only act on the strongest desire of the moment, then one is moved in a way that is not at any time subject to the constraint of other considerations, including those pertaining to justice. In lacking the ability to recognize and respond to the relevance of various relevant considerations, one would have no ability to conform oneself to objective standards of conduct that might conflict with one's strongest desire of the moment. The upshot of this, which is very important for our purposes here, is that responsibility requires a state of character, since responsibility requires a capacity for choice, and the capacity for choice requires a state of character.

Before we turn from this general condition for responsibility to the idea that we are responsible for just those things that have their source in us, it will be useful to consider Aristotle's remarks in *Metaphysics* ix on creatures "that can produce change according to a rational formula" (*Met.* 1047b 36-37). This is relevant to our earlier discussion of the image of biological begetting, and what it shows about the kind of origin of action Aristotle takes a person to be, for he explains there the sense in which a self-mover which produces motion "according to a rational formula" is capable of doing what it does. Thought or intellect in itself generates "contrary effects", he says, and so "intellect itself . . . moves nothing" (*EN* 1139a 35-36). Action requires a choice from among the competing plans of action generated by the intellect, and this depends on desire (*Met.* 1048a10-24, emphasis added):

That which decides, then, must be something else; I mean by this desire or choice. For whichever of two things the animal desires decisively, it will do, when it is in the circumstances appropriate to the potentiality in question and meets the passive object. Therefore everything which has a rational potentiality, when it desires that for which it has a potentiality and in the circumstances in which it has it, *must* do this. And it has the potentiality in question when the passive object is present and is in a certain state; *if not it will not be able to act.*

Thus he here insists that action from choice, originating as it does in thought and a state of desire (state of character involving a conception of the good) is necessitated. Desire necessitates action when it supplies an end for which deliberative reason can, and will, recommend means (i.e., a plan) of action. This conforms to his statement at *Met.* vi 3 (1027b7-8) that "everything, . . . that is to be, will be of necessity," and makes it clear that Aristotle's account can only be consistent with a conditional account of the ability to do other than what we do.¹² If one is "capable" of doing *x*, at time, *t*, in circumstances, *c*, then one "must do" *x*, Aristotle says; and so he would be compelled to add, if the question arose, that for one to be capable of not doing *x* at *t* in *c*, one would have to be different in some

respect.

There is a perfectly straightforward sense of what we "can" do, of course, in which "possible things are those," as Aristotle says (*EN* 1112b 27), "that might be brought about through us." In this sense, what we can do is whatever is permitted by our abilities and opportunities; whatever, that is to say, is determined by the structure of our ends and not by a *lack of* ability or opportunity. For a person, we find Aristotle saying, is the kind of source of movement in whom a state of desire for the perceived good is decisive and produces its results through the means selected by thought. And this is tantamount to saying that it is through the instrumentality of the intellect that character expresses itself in action, so that it would seem to be the dependency of differences in conduct on the agent's state of character (taking the mediation of the agent's reason for granted) that makes that conduct the agent's and not the product of something else. We saw earlier that Aristotle identifies decision or choice as the source of *action*, and yet I think he will not restrict that which has its source in us, and so what we can be responsible for, to that which is chosen. If an agent causes harm without choosing to do so, but does so in a way that reflects and springs from a defective character, then the agent may be regarded as the source and cause of the harm, and so as responsible for it, if we regard character and the conception of ends belonging to it as the originating seat of agency. This is not inconsistent with Aristotle's views, I think, for in addition to the evidence of *Met.* ix, he says at *EN* vi 5, that "the origin of what is done is that for the sake of which it is done" (1140b 15-16).¹³ To pursue this any further, however, we must take up the question of what the relationship is between responsibility and voluntariness.

III

It is widely agreed that Aristotle takes involuntary actions to be ones for which we are not responsible; they are attributable either to compulsion "of which the moving principle is outside, being a principle in which nothing is contributed by the person who acts or is acted upon" (*EN* 1110a 1-3), or to ignorance of the particular circumstances of the action. What is less often noticed, however, is that Aristotle does not regard us as only responsible for what we do voluntarily. The existence of a third category of actions, which are neither voluntary nor involuntary, arises because it is possible to distinguish (as he does at *EN* 1135b16-19) between ignorance that originates in the agent, through the agent's fault, and ignorance which has its origin outside of the agent. The kind of ignorance that makes an act involuntary must be ignorance that originates outside of the agent, for otherwise the act *does* have its origin and cause in the agent. Yet voluntariness requires knowledge of the circumstances (*EN* 1111a22-24), so when an act is done in ignorance of the circumstances of action, and that ignorance is the agent's own fault, then responsibility arises because the act and any resulting harm have their source and cause in the agent, even though the act is not voluntary.

So we find Aristotle distinguishing involuntary acts done by reason of ignorance, or caused by ignorance, from acts done "in" ignorance; though he never gives us a name in the language of voluntariness (*hekousion*) for this category of action that is neither voluntary nor involuntary. (The "non-voluntary" (*oukh hekon* at *EN* 1110b24) is a category arising from a

different distinction which does not concern us here. The category of *mistake* (*hamartama*) which he identifies at *EN* 1135b18-20 is a subclass of the category we are concerned with here.) The distinction is introduced in *EN* iii 1 in the following way (1110b25-27):

Acting by reason of ignorance seems also to be different from acting in ignorance; for the man who is drunk or in a rage is thought to act as a result not of ignorance but of one of the causes mentioned, yet not knowingly but in ignorance.

It is later, at *EN* 1113b30-1114a2, that Aristotle indicates that the source of action *in* ignorance is in the agent, and that the agent is properly held accountable for such action:

we punish a man for his very ignorance, if he is thought responsible for his ignorance, as when penalties are doubled in the case of drunkenness; for the moving principle is in the man himself, since he had the power of not getting drunk and his getting drunk was the cause of his ignorance. And we punish those who are ignorant of anything in the laws that they ought to know and that is not difficult, and so too in the case of anything else that they are thought to be ignorant of through carelessness; we assume that it is in their power not to be ignorant, since they have the power of taking care.

Aristotle is here, in what is regarded as a definition of negligence,¹⁴ driving home the point that culpable ignorance is itself blameworthy, but clearly he also has in mind that what one *does* in ignorance is blameworthy. Penalties are doubled for acts of aggression in a drunken state, for instance, and not for mere uneventful ignorance of facts. A similar passage occurs at *EE* 1225b9-17, and in it too the point is driven home that responsibility can arise through carelessness, even without voluntariness, if the knowledge of circumstances requisite for voluntariness is absent owing to carelessness.

So clearly Aristotle does not want to restrict responsibility to voluntary action, as is sometimes thought.¹⁵ He thinks we are responsible for some action that is not voluntary as well, a thought he exploits artfully in arguing that *akratic* action is blameworthy because it is not involuntary. *Akratic* acts are performed in ignorance of particular features of their circumstances, he suggests (*EN* 1147b6-8), such ignorance being due to the influence of passion (*EN* 1147a17-22). He suggests, furthermore, that the possibility of passion having such influence stems from moral defect in the form of an *akratic* character (*EN* vii 4). In short, then, Aristotle thinks that people are responsible for *akratic* actions despite the ignorance of circumstances he believes to be involved in such actions, because it is an *akratic* character that explains *akratic* action.¹⁶ This is in conformity with the thesis that "the responsible" for Aristotle "would seem to be that of which the moving principle is in the agent himself," she being an origin of *action*, and not just any kind of self-mover. Voluntariness requires, in addition, that the agent be "aware of the particular circumstances of the action," but responsibility does not require this, so reference to the agent's state of awareness of the circumstances can simply drop out, in identifying the conditions of responsibility.

It follows from this that an agent may be responsible for something without having decided to bring it about, or having foreseen its coming about, provided its source and cause

is the agent's character acting through the mediation of the agent's intellect. This can come about, indeed must come about routinely, because deliberation that consciously and errorlessly matches means to ends is not the only causal path by which an agent's character may express itself in action. It is not the only means by which the structure of an agent's ends may come to be reflected in action that satisfies those ends. We have seen this already in Aristotle's treatment of *akrasia*; the *akratic* agent acts against his deliberated judgment, and yet may be held responsible because his character is the cause of what he does. Furthermore, when the *akratic* (or self-indulgent) agent ignores his deliberations (or fails to carry them out to begin with), the resulting conduct is not merely caused by his character, but also *satisfies* a desire that the agent puts before, though does not *judge* more important than, others. We have here, in effect, at least part of a theory of negligence: a theory, that is, which justifies on the basis of an underlying concept of responsibility, a standard of liability which does not require culpable *intent*, if a wrong has arisen through a failure to exercise due care.

It may also be argued on Aristotle's behalf (and this would amount to a decision-theoretic partial theory of negligence) that it is inescapable that what agents don't care about will come to be reflected in their conduct and its consequences, even though most of those consequences are not consciously intended. This is so, because we cannot investigate the credentials of our beliefs endlessly, nor deliberate about every aspect of an action; we must be selective, and to the extent that the selection is rational it will reflect what matters to us (i.e., what we care about). But then, through our differential exercise of care, we come to advance certain interests or ends at the expense of others, though not in a way that is intentional in all respects. To make our action more fully intentional (i.e., intentional in more respects) could only be a waste of time and resources; it would require a less efficient manner of administering to the desires we have. Efficiency in this administration is arguably an important component of rationality, and so it would be absurd to protest that conduct that effectively satisfies a set of desires is not rational unless it is *mediated by* a conscious process of choice, or a rational will that issues volitions. But then, appetite and passion may (and often do) move us to do what is rational for us to do, this also being in general what we would desire to do after deliberating, if we deliberated. So it would be absurd to hold, and Aristotle would seem to deny, that an action originates in character mediated by the agent's intellect, only when mediated in the "standard" full-blown way by the conscious exercise of practical reason.¹⁷

IV.

We are now in a position to consider *EN* iii 5 and Irwin's defense of Aristotle's position according to the standard reading. At *EN* 1114a6-13 Aristotle looks to be arguing that no one comes to have the character he does but through choosing it, and so Irwin takes the central claim to be that "most adults . . . are still capable of effective deliberation about the sort of people they should be,"¹⁸ and so can be praised or blamed for the states of character they come to have. This looks quite plausible indeed, but there are reasons to think this is not Aristotle's view. One reason can be found in the circumstance that he cannot claim that deliberation in the absence of enduring character suffices for responsibility. Also, it is

troublesome that elsewhere in the *EN* he does not seem to think that adults *can* deliberate effectively about their character.

The first point is straightforward. As we have seen, *choice* requires not just reasoning, but also a state of character (*EN* 1139a32-b5), for otherwise the source of movement is not the kind involved in responsible agency. That is, Aristotle would almost certainly agree with the claim that the acquisition of a state of character cannot be credited to an agent in whom no state of character has yet developed, even if it arises with foreknowledge and through the agent's voluntary actions. He would not concede that those actions arise through external causes, as Hardie's objector suggests, for a person without a character is nevertheless a moving principle of a different kind; yet that person is not the kind of moving principle to which judgments of responsibility may be applied. So whatever Aristotle's intentions are in *EN* iii 5, he cannot, without inconsistency, mean to be arguing that people are usually responsible for coming to have the characters they do. They cannot be responsible for their *first* state of character, and we can hardly suppose that he means to be arguing that people usually or always progress beyond their first enduring states of character, acquiring subsequent ones.

Regarding the claim that adults can deliberate effectively about their character, it must be observed that one can only effectively deliberate with respect to a possible outcome of one's action if one can contemplate such an outcome; one cannot wish, or aim, for things that one cannot conceive of. So we could not count someone as effectively deliberating about what kind of character to have simply on account of his wishing to be vicious, and doing vicious deeds in order to become so; if he cannot conceive of what it would be like to be virtuous, then he has not chosen viciousness over virtue, and could not have chosen to be virtuous. Now at *EN* 1179b7-15 Aristotle says of arguments, that they

seem to have power to encourage and stimulate the generous-minded among the young, and to make a character which is gently born . . . ready to be possessed by excellence, [but] they are not able to encourage the many to nobility and goodness. For these do not by their nature obey the sense of shame . . . and have not even a conception (*ennoian*) of what is noble and truly pleasant, since they have never tasted it.

In light of Aristotle's empiricist principle that all thought derives from sense experience,¹⁹ we can infer from the final clause (literally "[the many] being without a taste of them [the noble and truly pleasant]" (*ageustoi ontes*)), that we are to understand the claim that most people lack a conception of nobility and goodness quite literally. Given this claim, Aristotle could not hold that they can choose to become virtuous; if they are impervious to the arguments of others, then neither could they stimulate themselves to virtue by reasoning with themselves (i.e., by deliberating). Moreover, Aristotle suggests here that this common lack of receptivity to reason and feelings of shame is explained by the endowments of birth.

Following and developing this line of thought is an examination of opinions concerning the origins of goodness (*EN* 1179b20-21): "Now some think that we are made good by nature, others by habituation, others by teaching." Aristotle's position on this seems to be that these opinions are all in part correct, and all of them also wrong, in that the cooperation of all

three of these influences is essential to becoming virtuous. "Perhaps we must be content," he says (1179b18-19), "if, when all the influences by which we are thought to become good are present, we get some tincture of excellence." Argument and teaching cannot in themselves be the origins of virtue, he argues (1179b26-30):

For he who lives as passion directs will not hear argument that dissuades him, nor understand it if he does; and how can we persuade one in such a state to change his ways? . . . The character, then, must somehow be there already with a kinship to excellence, loving what is noble and hating what is base.

The character "must *somehow* be there already," he says. Far from suggesting that it can get there through the unaided powers of the deliberating individual (the individual who can reason with himself), nor even with complete certainty through the efforts of the family and community to impose desirable habits, he argues simply that a *necessary* condition for the emergence of virtuous character is the regulation of "nurture and occupation" by a system of just laws.²⁰ "It is difficult to get from youth up a right training for virtue if one has not been brought up under right laws," he says (*EN* 1179b31-32), adding (1180a1-4) that

it is surely not enough that when they are young they should get the right nurture and attention; since they must, even when they are grown up, practice and be habituated to them, we shall need laws for this as well, and generally speaking to cover the whole of life; . . .

But though such a comprehensive scheme of laws is necessary, and is something the community ought to enact,²¹ Aristotle does not suggest that with this assistance we would all have it in our power to be good. Nor does he suggest that even the expert legislator has the ability to make everyone better through his care: "if anyone can do it," he says (*EN* 1180b26-28), "it is the man who knows, just as in medicine and all other matters which give scope for care and prudence." But he does not affirm that antecedent; he does not say that anyone can do this, only that the best person for the job is one who has learned to legislate. Even the best legislator will be unable to provide everyone with the prerequisites of excellence, given facts of economic necessity and vulnerability to conditions creating cultural instability.²²

In light of the role that Aristotle assigns to the influence of nurture and occupation, it would seem that whatever he means to be arguing in *EN* iii 5, his considered judgment is not that it is generally true that people can effectively deliberate about and control the states of character they come to have.²³ They can make themselves better, perhaps, but only within limits. As he says in *MM* i 11, "he who chooses to be best will not be so, unless nature also is presupposed; better, however, he will be." Nor, as I've argued, can his considered judgment be that people are in general responsible for having the characters they do. Thus we must wonder whether the standard reading of iii 5 is perhaps mistaken, or be prepared to discount what Aristotle says in that section as an inconsistent departure from the body of his account. As I've indicated, I will follow the former course here, taking Aristotle's motives and his conclusions to be very different from what they may seem to be.²⁴

V

Section iii 5 begins as follows (1113b3-9):

The end, then, being what we wish for, the things contributing to the end what we deliberate about and choose, actions concerning the latter must be according to choice and voluntary. Now the exercise of the excellences is concerned with these. Therefore excellence also is in our power, and so too vice. For where it is in our power to act it is also in our power not to act, and *vice versa*; . . .

In the preceding section Aristotle has just said (1113a30-31) that "each state of character has its own ideas of the noble and the pleasant," thus associating character with ends or what we wish for. So he is here contrasting character as such, which concerns ends, with the "exercise" or expression of character (the virtues) in action. The latter concerns means or what contributes to the end, and so is voluntary and in our power, he says. The balance of the section up to 1114a4 continues this theme of the power we have to do different kinds of actions, and it is at 1113b17-18, in response to the Socratic dictum that "no one is voluntarily wicked or involuntarily blessed," that a man is described as "a moving principle or begetter of his actions as of children." This is the same pattern of argument we saw in the *MM*, and again, this suggests that in general one need not be the source of the source in oneself of one's actions, in order to be the source of one's actions; anymore than one must be one's own parent in order to be the parent of one's child. Following this, Aristotle makes the observation that responsibility attaches even to what is done through carelessness and in the absence of foreknowledge, and this leads into the first of two rounds of objections and replies, running from 1114a3 to 31, and from there to 1114b25. The balance of the section (1114b26-1115a6) consists of a summary of what has been shown of virtues in general, and an indication that the discussion will turn from virtue in general to the several particular virtues.

I will argue now that what I have called the standard reading of this section depends on failing to attend to the distinct dialectical purposes generated by the two rather different objections Aristotle entertains. The first of these objections I take to be a challenge to the claim that we are responsible for what we do when acting in ignorance arising from carelessness: "But perhaps," the objector says (1114a3), "a man is the kind of man not to take care." The initial defense of negligence as a basis for liability has appeared in the claim that the careless "have the power of taking care," but now the objection comes that this may not always be true. Given what has preceded it in iii 5, the force of this suggestion is, in effect, that carelessness may sometimes be a trait which stands apart from the person as a source of action, and is not (or not always), as I have described it, a reflection in rational agents of what they value. Everything points to the objector having this limited concern in mind, including the fact that the objection comes in response to the introduction of what was by all accounts a major legal innovation.

That it does come in response to this is suggested not only by the fact that the objection comes immediately after the claim that responsibility arises through carelessness, but also by

the pattern of development running from the *MM*, through the *EE*, to the *EN*.²⁵ In the *MM* treatment of voluntariness (i 16) there is only a comparatively crude treatment of the role of knowledge; it is less systematic than the later accounts, more tentative in its lingering over the details of illustrative examples, and does not invoke the concept of ignorance (*agnoia*). The *EE* (ii 9) treatment of these topics, by contrast, is considerably more developed and more juridical in tone. The idea of ignorance enters explicitly, and a definition of negligence is formulated in terms of it (1225b9-16):

since science or knowledge is of two sorts, one the possession, the other the use of knowledge, the man who has but does not use knowledge may in a sense be justly called ignorant, but in another sense not justly, e.g., if he had not used his knowledge owing to carelessness. Similarly, one might be blamed for not having the knowledge, if it were something easy or necessary and he does not have it because of carelessness or pleasure or pain.

The treatment of these topics in the *EN* is, finally, the most highly developed of all, and the first to contain the substance of the objection and reply that run from 1114a3 to 22. What is quite interesting, moreover, is that if we look at what preceeds the discussion of carelessness at *EN* 1113b29-1114a3, namely the observation that individuals and legislators regard wicked and noble acts as voluntary (113b23-29), we see that it has a counterpart in *MM* 1187a13-22. And if we look at what follows those passages in the *MM*, we find a counterpart (1187a23-29) to what comes in the *EN* immediately after the discussion of carelessness, the objection following it, and reply (namely, at *EN* 1114a23-31, the development of an analogy between bodily defects and defects of character). In sum, it looks as though the introduction of the idea that negligence suffices for responsibility, together with the objection and reply that follow, were inserted into the sequence of the *MM* between two arguments about voluntariness that occur there contiguously. (Neither of those arguments appears anywhere in the *EE* chapters that discuss voluntariness, nor do the objection and reply of the *EN* appear there.) This suggests that what was inserted was inserted as a unit, and that the discussion that immediately follows this unit may be only very loosely related to what occurs in it. The general impression one gets is that in the *MM* the idea of negligence does not appear at all, in the *EE* it appears but with no anticipation of likely objections, and in the *EN* it appears with an objection and reply.

With this in mind, we must devote some attention now to understanding the character of Aristotle's innovation, so we can be clear on why he had very good reason to anticipate objections. To do this we must digress briefly to consider the state of the Athenian law which he was evidently addressing himself to.

The Athenian law was in a state of flux and full of unresolved tensions in the fourth century when Aristotle turned his attention to it. There were, then, puzzles; and his method of inquiry, let us recall, was to "set out the appearances, and first of all go through the puzzles" (*EN* 1145b3-5), thereby preserving the bulk, if a regimented bulk, of the common beliefs and practices initially considered. Those puzzles which he would have encountered and presumably attempted to resolve, arose from the dominance and subsequent retreat of the concept of "pollution". The shedding of blood, even accidentally (and, initially, in childbirth

no less than in homicide), was thought to afflict the one who had caused the bloodshed with a stain which threatened to defile the polis as a whole,²⁶ and this perceived threat to the polis was the basis for making exile the standard punishment. Intentional homicide was regarded as worse than unintentional homicide, though by what rationale it isn't clear, and the only form of defense considered was an argument to the effect that the defendant had not caused the death. The following is a frequently cited case from the *Tetralogies*, attributed to Antiphon:²⁷

The whole argument centers on the question, Who caused the death? . . . A youth practising in the gymnasium accidentally hits a boy who runs from among the spectators. Nothing is said expressly by either side on the point of the killing being accidental. The defense is that the boy, by the act of running into the course of the javelin had caused his own death. Aiming at the target was not killing the boy; otherwise, the others practising would be equally responsible; it is not because they did not throw that they are not liable but because the boy did not run into their javelins, and he by his own fault had, however unfortunately, brought his own punishment upon himself and thereby absolved the thrower.

It is interesting that the issue here, in fifth century legal practice, should be the very one at the core of Aristotle's thinking on responsibility. The decisive question in both is whether the agent is the source of the thing for which responsibility is to be determined. It is also important that the negligence of the victim enters here as a defense, establishing the *victim* as the source of the death, but without negligence being recognized as a distinct basis for liability, a basis for viewing a *defendant* as the source of a death. This created a tension in the Athenian standards of liability, inasmuch as accidental killing was regarded as less serious than intentional killing, but no distinction of gravity was made between "innocent" accidents and those in which culpable carelessness played a role. Another tension arose from the fact that outside of the law of homicide, in areas beyond the scope of the concept of pollution such as personal injury law, it appears that liability required intentional aggression.²⁸ While in the law of homicide, negligence on the victim's part was an adequate basis for regarding the victim as having been the "source and cause" of his own injuries, it seems that in other contexts negligence was never regarded as sufficient for responsibility. So there was no uniform standard of liability in the Athenian law, and we can see Aristotle as attempting to introduce one, or at any rate as setting down the first theoretical formulation of one. He does this by broadening the concept of fault (in personal injury) so as not to require guilty *intent*, but also by narrowing the scope of liability (in homicide) so that it requires *some* fault. He does this in a way, moreover, that develops the act of negligence as a distinct category which satisfies his underlying conception of responsibility, being distinguished from the category of *misadventure* (*atuchema*) (EN 1135b10-25) which does not create liability. With this innovation, "Aristotle breaks new ground," the historian of law observes,²⁹

by distinguishing between consequences which are and those which are not

reasonably to be anticipated. There is responsibility for the former; the latter are to be treated as accidental. By recognizing that there might be liability for foreseeable harm without evil intent, Aristotle opened the way for recognition of negligence standing beside intention as a separate ground of legal as well as moral culpability.

VI

The intended force of Aristotle's response to the objector, then, is almost certainly to argue that what is done through carelessness *does* have its source in the agent, and is a reflection and consequence of the agent's defective character. Ideally, he might have argued that carelessness is rarely in anyone a fixed and uniformly occurring feature of action infecting every aspect of what she does; that it is selective, rather, and rationally reflects the agent's ends, by and large. And he might have argued that this shows itself in what we mean in calling someone "careless", namely that she exhibits a tendency to fail to take care *with respect to what she ought*. But perhaps Aristotle is simply taking something like this for granted here, that failing to use knowledge already possessed or lacking knowledge that is "easy or necessary," on account of failing to handle pleasure or pain properly (EE 1225b 15-16), is something that has its source in the agent. Assuming that this is the case, we can understand Aristotle's purpose here to be to elaborate that part of an account of negligence that would pertain to carelessness arising from *incapacitation*, rather than from an *unutilized capacity* to take care. This seems to be what the critic is demanding, and his strategy in answering the critic is to develop what is said of the drunkard into a general model for responsibility arising from carelessness owing to incapacity.

The model is this: the drunkard, because he doesn't care enough about doing what he should, lets it come about that he is (voluntarily) in a state (i.e., a bodily condition) that makes it impossible for him to behave properly. He gives up the control that he normally has over *means* of action. Thus, when he comes to be doing things he ought not to through this abdication of control, his conduct is explained by his ends, even though it is not voluntary. It is apparently with this model in mind that Aristotle says (EN 1114a4-7), that those who don't take care

are themselves by their slack lives responsible for becoming men of that kind, and men are themselves responsible for being unjust or self-indulgent, in that they cheat or spend their time in drinking bouts and the like; for it is activities exercised on particular objects that make the corresponding character.

The self-indulgent man is careless in that he doesn't even bother to complete his deliberations, and Aristotle here gives us an account of the origins of self-indulgent carelessness on which the carelessness is owing to the agent's ends, and arises through the mediation of the agent's voluntary actions.

Having come, through generalizing the model of the drunkard, to hold that the

carelessness of the self-indulgent or unjust person is self-imposed, Aristotle cannot turn back from holding that all vices, as dispositions of character, can be voluntarily acquired. This is so because, on the picture he has here, one becomes careless in becoming self-indulgent, for instance; the vice and the loss of capacity to take care are inseparable. So if the strategy Aristotle adopts is to work, if he is to show that an inability to take care may be voluntarily self-imposed, he must also show that the vices that generate carelessness can be voluntarily acquired. Thus he says (1114a13-23):

if without being ignorant a man does the things which will make him unjust, he will be unjust voluntarily. Yet it does not follow that if he wishes he will cease to be unjust and will be just. For neither does the man who is ill become well on those terms. Although he may perhaps, be ill voluntarily, through living incontinently and disobeying his doctors. In that case it was *then* open to him not to be ill, but not now, when he has thrown away his chance . . . So too, to the unjust and to the self-indulgent man it was open at the beginning not to become men of this kind, and so they are unjust voluntarily; but now that they have become so it is not possible for them not to be so.

Aristotle says that these vicious states of character are acquired voluntarily. His earlier claim (1114a4), that the careless are "responsible for becoming men of that kind," requires that the agent who makes himself vicious be *already* endowed with a character which is neither vicious nor *securely* virtuous, though virtuous it must be. He can't *become* unjust if he already *is*, and, as we've already established, he can't be responsible for his becoming that way unless he already has an enduring, if not secure, state of character. If the man who is carelessly self-indulgent is to arrive at his state in the way that the drunkard gives up control that *he* previously had, he must first be capable of choice, and must *then* make bad choices which ruin his character and destroy his capacity for deliberating well.

The standard reading resists the idea that the agent has a character prior to the one voluntarily acquired, on the grounds that on those terms the argument will have gotten nowhere at all. For it is supposed that Aristotle is here trying to make a case for everyone having radical responsibility for whatever characters they have. Yet the argument here concerns only the acquisition of *vices*, and the point is to establish that the source of the carelessness owing to vice is the agent's ends. Questions concerning the agent's responsibility for having the ends he does have not even been raised at this point.

Aristotle's observation, that vice cannot be reversed once it has taken hold, might also seem to be evidence that he thinks of characters as permanent once having been established; and this might in turn be used as further evidence that he is not suggesting in iii 5 that agents have one state of character before the one they are said to acquire voluntarily. And yet, if the indications in iii 5 are that he thinks it is impossible to reconstruct a character once ruined, he shows no signs of thinking that *virtue* is irreversible. The indications in x 9 are that he thinks goodness is a state from which many of those who are good are in constant

danger of slipping, for otherwise there would be no need of a system of laws "to cover the whole of life." Other texts bear this out, including the observations in *Rhetoric* ii 12-17 on the impact of aging, normal life experiences, and gifts of fortune on character, and the discussion in *EN* ix 12 and elsewhere of *philia* and the influence over one's moral character exercised by those whom one loves.³⁰ These influences are described by Aristotle in such a way that there can be no doubt that he regards them as forces which can lead to the erosion of good character, if not, perhaps, outstandingly firm good character. So the evidence in iii 5 that Aristotle thinks vice is irreversible is no reason to think that he doesn't view the person who voluntarily becomes unjust or self-indulgent as throwing away a more virtuous prior state of character.

Another objection to this reading of 1114a3-31 might be found in the question of whether Aristotle really thinks that all vices involve incapacitation of the sort I have suggested. If he does not, then my depiction of the progression of the argument doesn't cohere, for it depends on holding that Aristotle wants to treat carelessness as a state, arising from vice, in which the agent is incapacitated (in somewhat the way that someone who is drunk is incapacitated), having brought this on himself in voluntarily becoming vicious; and Aristotle does not say here, as perhaps he should on this interpretation, that all vice involves incapacitation. Nevertheless, he says as much elsewhere, and there is no indication that he does not in iii 5 simply take this for granted. In *EN* vi 4, for instance, he describes the virtue of temperance (*sōphrosynē*) as "preserv[ing] one's practical wisdom or intelligence (*sōzousan tēn phronēsin*), and more specifically one's "beliefs about what is to be done" (1140b 11-15). "For the origin of what is done is that for the sake of which it is done," he says (1140b 15-19):

but the man who has been ruined by pleasure or pain forthwith fails to see any such originating principle -- to see that for the sake of this or because of this he ought to choose and do whatever he chooses and does; for vice is destructive of the originating principle of action.

So Aristotle does seem to think of vice as causing a loss of the ability to deliberate from ends and act in light of what is good, and this is consistent with the foregoing argument. We might also reasonably conclude from this, moreover, that his view must be that an agent may be careless through an *unutilized* capacity to take care only in the short run or only occasionally, since making a practice of it would in time lead to the erosion of deliberative capacity. Much negligence would be associated with incapacitation on this view, but much of it, perhaps, would not be.

Another important feature of this interpretation of 1114a3-31 is that it is consistent with Aristotle's position in x 9 regarding the origins of goodness. For when the influences of nurture and occupation are properly regulated they may undercut the agent's claim to credit for his having a virtuous character (though he is worthy of praise for what he contributes through his own efforts), yet those influences would not in the least undercut the

responsibility of someone who comes to have a vicious character despite the conscientious efforts of his community. Aristotle indicates that he takes these efforts for granted when he argues for the voluntariness of vice, in that the guidance of a relevant authority figures in his analogy of the man becoming ill "through living incontinently and disobeying his doctors" (1114a16). He says (1114a13) that "if *without* being ignorant a man does the things which will make him unjust, he will be unjust voluntarily," but as we have seen he also argues in x 9 that ignorance of the good (i.e., having no conception of the good) is widespread and must be counteracted by careful attention to nurture and occupation. So I take it he would not insist that as a matter of fact everyone with a defective character has failed to be virtuous voluntarily. Yet he has taken note of what it is fitting for the community and statesman to do with respect to fostering moral development, and if he took a conscientious effort in these matters to be a precondition for the just imposition of moral or legal sanctions, then he could hold that the cases in which vice is involuntary are ones in which blame could not have been authorized by the community anyway. If an agent comes through ignorance to have a defective character, then the presumption is that this is the community's fault, and it is in no position to blame the agent. So he could consistently argue that even though there may in fact be many cases of involuntary vice, he has adequately satisfied the objector's demands, in showing how agents who are not ignorant of what they are doing can ruin their characters, and thus throw away the control over their actions that they enjoyed in being able to deliberate well.

We may summarize the result of the discussion at 1114a3-31, then, by saying that Aristotle there defends the idea that careless action that is neither voluntary nor involuntary suffices for responsibility because its source and cause, like voluntary action, is the agent. He pursues this defense by trying to show how even negligence in a state of incapacitation can be owing to the agent's ends, through the mediation of voluntary actions (and the ruining of character) that spring from those ends. The result seems to be a reasonably plausible picture of negligence as involving an unused capacity to take care in those who do not make a practice of carelessness, but as associated with incapacitation in those who have ruined their characters. This is significant as an attempt to articulate and defend a novel standard of liability, and, in grasping the significance of this, it becomes clear that we need not interpret Aristotle as conceding that there is no responsibility for what one does without radical responsibility for the state of one's character. What he concedes is that *if one lacks the capacity to deliberate and put one's deliberations into effect*, as one does in lacking the ability to take care, then one can only be responsible for what one does if one was responsible for one's coming to be in that incapacitated state.

VII

The second objection in the dialectic of *EN* iii 5 raises the issue of the agent's responsibility for his ends (1114a31-32):

Now some one may say that all men aim at the apparent good but have no control over the appearance, but the end appears to each man in a form answering to his character.

Aristotle does not respond to this, as some might expect him to, with the claim that we *do* control what appears good to us. The response he gives is repeated twice in succession (at 1114b1-16 and then again at 1114b17-25), and in both formulations has the structure of a dilemma. The second, summary version runs as follows:

Whether, then, it is not by nature that the end appears to each man such as it does appear, but something also depends on him, or the end is natural but because the good man does the rest excellence is voluntary, vice also will be none the less voluntary; for in the case of the bad man there is equally present that which depends on himself in his actions even if not in his end. If, then, as is asserted, the excellences are voluntary . . . the vices also will be voluntary; for the same is true of them.

Clearly, Aristotle does not think that the previous discussion of the voluntariness of vice served to show that agents can choose what ends to pursue, or he would here affirm that agents choose their ends. He does not affirm this, but instead entertains it as one of two possibilities. The second possibility, "that the end is natural" (and thus, beyond our control), is not denied, but rather defused by the observations that acting well and acting badly are the same with respect to voluntariness, and that it is in implementing means for the pursuit of our ends that we earn credit and blame.

The first part of this response, that virtue and vice are the same with respect to voluntariness, is a partial response to the asymmetry postulated by Socrates in his famous paradox, which Aristotle has responded to with the metaphor of begetting just forty-five lines earlier. This assertion of symmetry (which has been argued for at 1110b 9-15 and 1111a 27-29) has more force than it may appear to have, and is not, I think, the mere (or nearly mere) *ad hominem* that Furley, Gauthier and Jolif believe it to be.³¹ "It was enough for Aristotle to show," Furley writes, "that the Socratic paradox, unqualified, would exempt *good* behavior, as well as bad, from moral appraisal; for this would be fatal to the teaching of Socrates and Plato."³² It would be fatal to more than that, I think, for it implies that if someone wishes to be excused for what she does in pursuing ends over which she has no control, then she will have to forego credit for what she does pursuant to those ends. This is a telling point to make, so far as justifying actual *practices* of passing moral judgments is concerned, in as much as foregoing credit is probably not a tenable strategy for escaping blame, unless one's community is *very* badly ordered, or one is so alienated from it as to be willing to forego *all* claim to credit. And so, when Aristotle says, at the end of the passage cited, "if, then, as is asserted, the virtues are voluntary," he seems to be taking the objector to concede in his, the objector's, own terms, that we will all take credit and accept blame despite our having only limited control over our ends. And this, of course, is the only

socially viable policy one could adopt. We cannot abandon the practice of tracing problems to their roots, for this is the kind of phenomenon an inquiry into responsibility is, and it is perfectly coherent to hold as Aristotle does, that the way in which we judge a harm to be someone's fault is no more suspect than the judgment that a youth is someone's child.

The second part of the response that Aristotle gives here, that it is in implementing means for the pursuit of our ends that we earn credit and blame, is an idea that recurs elsewhere in the *EN*. In i 8, for instance, we are told that "the chief good" consists in "activity in accordance with virtue," in the use, and not the mere possession, of virtue; for "as in the Olympic Games it is not the most beautiful and the strongest that are crowned but those who compete" (1098b 31 - 1099a 4).³³ And so, likewise, one does not become responsible for a harm merely through possessing a faulty conception of the ends of action; one can only become the "source and cause" of a harm through one's own activity in pursuit of those ends. This, of course, is true; and to make this point is, in effect, simply to observe that, given what the word "voluntary" means, our activity in the pursuit of our ends is voluntary, in originating in *us*, even if those ends are not themselves voluntarily acquired. If they are *our* ends, then the conduct and its results has originated in *us*. Moreover, this adds an increment of force to the preceeding argument; for as much as one might be tempted to argue that one's ends were, for instance, an accident of birth, there can be little temptation, in general, to argue that what one produces through one's own labor is not one's own.

To summarize Aristotle's response to this second objection, it is clear that all Aristotle has asserted, or argued for, is that *if* virtue is voluntary, then so too is vice. This, and what he has said in response to the first objection, is all the argument that Aristotle gives us in iii 5, and so when in summing up (1114b26-30) he says that the virtues are states of character which "are in our power and voluntary," he apparently does not mean that it is entirely up to us what ends we are to pursue. He must mean that there is a conditional sense in which virtue and vice are both in our power, and that through our voluntary actions we can either confirm ourselves in a state of virtue, or fall, through practicing bad habits, into a less desirable state of character. He may also mean that in being able to deliberate about the things that are "toward," or "contribute to," our ends, we have some ability to chose what specific ends we shall act from; but whatever he actually believes about this, we must conclude from the restraint he exercises at *EN* 1114b 17-25, that his views do not imply that agents can freely choose their ends.

VIII

In conclusion, then, what *EN* iii 5 contributes to Aristotle's theory of responsibility is not just a summary and defense of the practices of attributing responsibility for those things, whether good or bad, which have their origin in the persons blamed or praised, but also, and very importantly, a restatement and defense of his solution to the puzzles he found in those practices as they existed in his time. In this instance, to save the phenomena was also to transform them, not in Athens, perhaps, but in the practices and standards of Roman and subsequent law which were influenced by Greek ideas.³⁴

NOTES

1. The passages I cite will follow in large measure, but not entirely, the Revised Oxford translations of *The Complete Works of Aristotle*, ed., J. Barnes (Princeton: Princeton University Press, 1984). Where I diverge it is more for reasons of style than of content. The differences between the Irwin and Urmson revised translations of the *Nicomachean Ethics* (EN) and even the differences between them and the unrevised Ross translation, make no discernable difference to the argument of this paper, except that the interpretive section headings which Irwin has inserted into the text (*Nicomachean Ethics* (Indianapolis: Hackett Pub. Co., 1985)) are in some cases extremely misleading (e.g., throughout 1114a and b).
2. See, e.g., chapters five and six of Arthur Adkins's *Merit And Responsibility* (Oxford: Clarendon Press, 1960) for an overview and discussion of the relevant sources. I should say in passing that as useful as Adkins's book is, he goes astray in much the way that others do when he concludes that the position in Greek values accorded to merit makes it all but impossible to construct an adequate account of moral responsibility. Much of the evidence he tries to call upon would be better conceived of as evidence that it was not an explicitly *moral* form of responsibility that concerned the Greeks.
3. See, e.g. J. W. Jones, *The Law And Legal Theory of the Greeks* (Oxford: Clarendon Press, 1956), p. 274. All ancient codes of law are dominated by their provisions for the redress of wrongs ("torts", to use the English technical term, or in Latin, *delicta*), those wrongs being conceived of as wrongs to individuals, and so not as crimes (*crimina*), which are conceived of as wrongs against the State. (See, e.g., chapter ten, "The Early History of Delict and Crime," in Henry Sumner Maine's, *Ancient Law* (London: John Murray, 1894).) Though the modern common law has criminalized many offenses, such as assault and violent robbery, which were regarded as *delicta* by Greek and Roman law, there is a continuity between modern tort law and the Roman law of *delicta* with respect to standards of liability.
4. This distinction depends on either a sharp distinction between failures to conform to moral standards and failures to conform to legal standards, or on a distinction between different *ways* of failing to conform to standards (*mens rea* being required for moral responsibility, for instance, but not for some kinds of legal liability), or both. But neither of these necessary distinctions seems to have been developed in such a way as to support a distinction between moral and legal responsibility. So while Aristotle does distinguish between natural justice and legal justice (see EN1134b18-24), for instance, he does not make any use of this distinction in his account of responsibility.
5. W. F. R. Hardie, *Aristotle's Ethical Theory* (Oxford: Clarendon Press, 1980), p. 175.

6. *Ibid.*
7. Terence Irwin, "Reason and Responsibility in Aristotle, in *Essays on Aristotle's Ethics*, ed. A.O. Rorty, (Berkeley: University of California Press, 1980), p. 142.
8. My argument does not depend on the authenticity or dating of the *Magna Moralia* (*MM*), but my policy will be to call attention to passages from the *MM* which, insofar as it *can* be considered authentic, do tend to confirm my interpretation of the *EN*. I do regard the *MM* as authentic, moreover, on the strength of arguments that appeal to the apparent philosophical development running from the *MM*, through the *EE*, to the *EN*; and (contrary to, e.g., Anthony Kenny, *The Aristotelian Ethics* (Oxford: Clarendon Press, 1978)) I regard the *EN*, together with the *Politics and Rhetoric*, to be the consummate expression of Aristotle's ethical views. On the authenticity of the *MM*, see Max Hamburger, *Morals And Law: The Growth of Aristotle's Legal Theory* (New Haven: Yale University Press, 1951), a book cited by legal historians but neglected by philosophers, and John Cooper, "The *Magna Moralia* and Aristotle's Moral Philosophy," *American Journal of Philology* 94 (1973): 327-49. I agree with Cooper's observation (p. 328) that "on some issues the simpler treatment found in the *Magna Moralia* presents more adequately a basic insight which the other, more elaborate treatments tend to obscure."
9. As I shall explain at greater length later, this was owing originally to the fact that the question, when a violent death (*phonos*) had occurred, was who had caused the death (who was *aitos phonou*). A defendant could not escape punishment except by showing that he was not *aitos phonou*.
10. Hardie, *op cit.*
11. See David Wiggins, "Deliberation and Practical Reason," in A. Rorty *op cit*, pp. 221-240, esp. p. 225.
12. As Gail Fine has suggested in "Aristotle on Determinism: A Review of Richard Sorabji's *Necessity, Cause, and Blame*," *The Philosophical Review* XC, (1981), pp. 561-579. It is worth noting that Sorabji (Ithaca: Cornell University Press, 1980) cites four passages in which human actions or animal movements are described as necessitated: *EN* 114a27, a 30; *Met.* ix5, 1048a14; *Mvt. of Animals* 9, 702b24; *Poet.* 7-10. These examples, and many others, he says, "are ones which we would class as cases of causal necessitation. This is not one of Aristotle's categories. But he too groups many of the cases together, under the heading of 'natural necessity.' At pp. 150-54, Sorabji suggests that the way to reconcile this with Aristotle's denials of necessity, is to view those denials as a carelessly sweeping way of making "several comparatively modest points," such as, e.g., that "we cannot exhibit a result as necessary, if we merely refer, as the Presocratics did, to matter or material cause." Yet he concludes that Aristotle believes that human action is caused but necessitated. Gail Fine offers in her review a different

reconciliation which preserves the conclusion that Aristotle regarded actions from choice as causally necessitated. Though I cannot address the relevant issues at any length here, I think this conclusion is borne out by the evidence from *Met.* ix, as well as from the *Mvt. of Animals*, and the *Physics* and *De Anima* on self-movers (see, e.g. David Furley, "Self-Movers," in A. Rorty *op. cit.*, pp. 55-68)

13. The suggested resolution to the apparent inconsistency in Aristotle's own formulations is the only one possible, I think, given the role of carelessness and acting *in* ignorance in his thinking about responsibility. The sections ahead will make this clear.
14. See e.g., Hamburger, *op. cit.*, p. 33.
15. See, e.g., the paper of Irwin's cited in note 7. Irwin's final formulation of Aristotle's analysis of moral responsibility occurs on page 132: "A is responsible for doing *x* if and only if (a) A is capable of deciding effectively about *x*, and (b) A does *x* voluntarily."
16. My reading of Aristotle on this point is essentially the same as Gary Watson's in "Skepticism About Weakness of Will," *The Philosophical Review* LXXXVI, No. 3, (1977), pp. 316-39.
17. It follows from this that it is not a mistake to take the source of responsible action to be deliberative desire *always*, if we understand by this desire that is appropriate to the balance of the agent's ends, and consciously deliberated about to the extent it would be rational to deliberate about it. So it isn't necessary to hold, as Irwin does, that the identity of the moving principle must be left open in order to avoid a formulation that is too restrictive (i.e., that would rule out "appetite, anger, sudden passion or impulse [as] possible causes of voluntary and responsible actions" (Irwin, *op. cit.*, 131)).
18. *Ibid*, pp. 140-141.
19. See, e.g. *DA* 432a7; *Sent.* 445b16; and *A.Pst.* 81a38, which are cited by Jonathan Barnes in "Aristotle's Concept of Mind," in *Articles On Aristotle*, Vol. 4, ed. J. Barnes, M. Schofield and R. Sarobji, (London: Duckworth, 1979), p. 39.
20. Another passage in which Aristotle argues, that one "must have been *brought up* in good habits" (emphasis added) if one is to be receptive to learning about justice and nobility, occurs in *EN* i 4 at 1095b4-6.
21. At *EN* 1179b25-30 he praises the Spartan state for its "attention to questions of nurture and occupation," adding that "it is best that there should be a public and proper care for such matters." *Politics* vii and viii develop further the themes that common practices in these matters are deficient and that education should be public.
22. I owe this last observation regarding the limits of legislation to Martha Nussbaum's

- book, *The Fragility of Goodness*, (Cambridge: Cambridge University Press, 1986), which I've encountered since first developing the argument of this paper in my Ph.D. thesis, *Towards A Theory of Moral Responsibility*, University of Pittsburgh, 1985. At p. 347 she argues that "even in a good and stable culture, because of economic necessity there will always be those who, living the life of manual laborers, will be debarred by the exigencies of their daily work from having the education that is requisite for full human excellence," citing *Pol.* 1278a0-1, "If one is living the life of a craftsman or hired servant, it is not possible to practice the things belonging to excellence."
23. Commentators have taken the standard reading of iii 5 and criticized Aristotle for supposedly failing to realize that early training would be a threat to responsibility for character. See e.g., D. J. Finley, "Aristotle on the Voluntary," in *Articles On Aristotle, Vol. 2: Ethics & Politics*, J. Barnes, M. Schofield, and R. Sorabji, (London: Duckworth, 1977), p. 53. Clearly Aristotle did realize this, and it is the commentators who err in failing to look for other interpretations of iii 5.
 24. Another recent attempt to defend Aristotle, when read as arguing that people are (generally or universally) responsible for their state of character, appears in T. Engberg-Pedersen, *Aristotle's Theory of Moral Insight* (Oxford: Clarendon Press, 1983), at p. 240 f. It is claimed that an adult, engaged in activity that he realizes will reinforce a given state of character, can make the non-rational desiderative state that he either already has or is about to create *his own*. He will 'create' himself as a certain type of person in the full sense" (p. 249). It is hard to see how this differs from saying that one can make one's peace with who one is, or what one is becoming, where this is a stance of acceptance or accommodation one can take, but can also refuse to take. It is harder still to see any connection between this and Aristotle's notion of responsibility.
 25. My awareness of this pattern of development owes a lot to Hamburger, *op. cit.*, pp. 15-32. At p. 26 he concludes: "The least juridical exposition is that of *MM*; in *EE* the juridical tone is more pronounced; in *EN* the argument is eminently legal. This is hardly in harmony with the thesis that Theophrastus and his school gave to *MM* its peculiar juridical tinge."
 26. Jones, *op cit.*, p. 255.
 27. Recounted by Jones, *op cit.*, p. 262.
 28. *Ibid.*, p. 269. See also Roscoe Pound, *An Introduction To The Philosophy of Law* (New Haven: Yale University Press, 1954), pp. 78-80.
 29. Jones, *op cit.*, p. 274. Jones equates the category of negligence with *mistake* (*hamartama*), but *hamartama* as Aristotle describes it is a narrower category than the one he has previously identified as falling between the voluntary and the involuntary and involving ignorance originating in the agent.

30. Nussbaum gives an illuminating treatment of these passages, *op. cit.* at pp. 336-340 and 362-365, and argues that even the Priam passage at *EN* 1100b33-1101a13, which seems to constitute countervailing evidence ("no blessed (*makariotēs*) man can become miserable; for he will never do the acts that are hateful and mean."), actually supports this conclusion that "Aristotle plainly does believe that our worldly circumstances affect, for better or worse, adult circumstances affect, for better or worse, adult good character itself" (p. 336); that he "does not believe that there *are* any really invulnerable people" (p. 387). The argument occurs at pp. 328-33 and 337, and focuses on what is suggested by the remark (*EN* 1101a 11-13) that ". . . nor, if he has had many great misadventures, will he recover his happiness in a short time, but if at all, only in a long and complete one in which he has attained many splendid successes."
31. D. J. Furley, "Aristotle on the Voluntary," in *Articles On Aristotle*, Vol. 2: *Ethics and Politics*, *op. cit.*, pp. 47-60. R. A. Gauthier and J. Y. Jolif, *Aristotle: L'Ethique à Nicomaque* (Louvain, 1970).
32. D. J. Furley, *op. cit.*, pp. 52-53.
33. See Nussbaum, *op. cit.*, pp. 324, 25 on this point.
34. See Jones, *op. cit.*, p. 312 e.g. I owe thanks to Mary-Louise Gill, Peter King, and an anonymous referee for the *Philosophical Review* for comments on earlier drafts of this paper. All of them helped me correct errors which I would otherwise have made.

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